

Yeh, Alice

From: CN=Elizabeth Butler/OU=R2/O=USEPA/C=US
Sent: Thursday, May 25, 2006 9:57 AM
To: CN=EricJ Wilson/OU=R2/O=USEPA/C=US@EPA
Cc: CN=Ray Basso/OU=R2/O=USEPA/C=US@EPA
Subject: Re: Passaic River Scout Action

Eric,
Please see my edit to the CIP date below in bold.....
Liz

EricJ Wilson/R2/USEPA/US
05/23/2006 09:43 AM
To Elizabeth Butler/R2/USEPA/US@EPA
cc Ray Basso/R2/USEPA/US@EPA
Subject Passaic River Scout Action

Liz,

We have a 5/12/06 milestone for the release of the Final Community Involvement Plan. Has this been completed? If so please provide a completion date. If not, please provide a revised estimated completion date. While your at it, if you could check the other milestone and the action abstract and make sure these are current, that would be helpful.

We need to have the updates in by COB Thursday, so please get me any edits or additions Thursday afternoon. Thanks,

Eric

----- Forwarded by EricJ Wilson/R2/USEPA/US on 05/23/2006 09:37 AM -----

EPA Priority Action

Action Title: Passaic River

Initiating Office: Region02 / Emergency And Remedial Response Division (ERRD)

Management Level:

AA Approval: 04/13/2006 06:26 PM, Kathy Callahan

Contact:
George Pavlou
(212) 637-4390

Action Type: OPEI Approval: 12/14/2004 02:55 PM, Bruce Schillo
Superfund OPA Review: ,

Action Abstract:

Passaic River: An Administrative Order on Consent (AOC) between EPA and a group of 31 potentially responsible parties (PRPs) became effective on 6/22/04 for the PRPs to provide \$10 million in funding for EPA to continue with the Superfund Remedial Investigation/Feasibility Study portion of the Lower Passaic River Restoration Project. The AOC was amended on 11/9/05 to add 12 new PRPs to the group and an additional \$750,000 to study payments. The Project is a collaboration among EPA, the Army Corps of Engineers, NJDOT, NJDEP, NOAA and USFWS, which brings together the authorities of the Superfund program and the Water Resources Development Act to tackle the environmental problems of the Lower Passaic River. The joint efforts of the agencies will produce a plan to address contaminated sediments, improve water quality, and restore the ecological health of the 17-mile tidal stretch of the river, from Dundee Dam to Newark Bay.

On 9/19/03, NJDEP issued Natural Resource Damage (NRD) Directives to a group of PRPs (some are also EPA's CERCLA PRPs, but not all), for them to conduct a NRD assessment and implement interim restoration. NJDEP had originally asked the PRPs for \$950 million

Ex. 5; predecisional & deliberative; attorney work product

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On 12/14/05, Commissioner Campbell issued another Directive to Occidental Chemical Corporation (OCC) requiring it to pay NJDEP \$2.3 million to develop a plan to dredge the lower 6 miles of the Passaic River to remove dioxin-contaminated sediments down to 17 ppt or some other standard. Campbell also filed a lawsuit against OCC seeking declaratory judgment cost recovery. On 2/28/06, OCC sued Passaic Valley Sewerage Commission (PVSC), five NJ municipalities and two NJ state agencies in response to Campbell's lawsuit. On 3/7/06, Commissioner Jackson wrote to confirm a conversation with the RA the previous day, that EPA and NJDEP would meet to discuss possible coordination of each agencies' early action plans. Commissioner Jackson stated a willingness to stay the Directive for 60-90 days provided we work together to develop a time frame and approach for identification of the interim remedial action for the river. EPA agreed with the Commissioner and on 3/29/06 the first of a series of meetings to advance this process occurred between NJDEP, EPA, the other partner agencies and the respective consultants.

Ex. 5; predecisional & deliberative; attorney work product

Newark Bay: An AOC between EPA and Occidental Chemical Corp (OCC) was signed on 2/13/04 for Tierra Solutions (TSI) to perform a RI/FS for Newark Bay. EPA signed the AOC to maintain oversight of the Newark Bay work and ensure that it is conducted consistently with the Lower Passaic River study. Although the Newark Bay work is being performed by TSI, EPA will conduct the risk assessments, modeling and community relations, with funding by OCC. On 1/21/05, NRDC, Baykeeper and Greenfaith filed a lawsuit against the Corps, requesting the Court to issue a preliminary injunction that would stop the Corps from dredging Newark Bay, Arthur Kill & Kill Van Kull until it prepares a Supplemental Environmental Impact Statement (SEIS) to address how EPA's designation of Newark Bay as an Operable Unit (OU) of the Diamond Alkali Superfund Site affects the 50-ft deepening project. The US Attorney's Office took the lead on responding to the lawsuit. EPA is not a defendant in this action, but EPA (Pavlou) did provide two declarations in support of the Corps. On 8/5/05 the court issued an opinion in favor of NRDC stating that the Corps violated both the National Environmental Policy Act (NEPA) and the Administrative Procedures Act (APA) by failing to take a hard look at whether the impacts of their harbor deepening program on the Superfund RI/FS sampling are sufficient to require the preparation of a SEIS. This opinion did not determine the remedy. The Corps argued for postponement of the remedy decision until publication of their final revised Environmental Assessment (EA). On 1/6/06 the Corps published its final EA and on 3/6/06, the court issued its remedy decision requiring the Corps to produce sufficient data by July to determine whether an SEIS is needed.

Milestones:

Stage	Milestone	Date	Comment
	Issue AOC	06/22/2004	completed Description: EPA expects to be able to declare the AOC effective on 6/18/04, barring receipt of any comments. EPA will then receive the first installment of funding (\$1.5 million) from the PRPs by 6/28/04.
	Work Plan	04/08/2005	completed Description: A workplan to guide field work is expected to be available by 3/30/05.

Draft Community Involvement Plan 06/06/2005 completed Description: A draft Community Involvement Plan was completed on 6/6/05 and is undergoing internal agency review.

Public release of Community Involvement Plan 08/18/2005 completed

Initiation of sediment sampling 09/12/2005 completed

Initiation of water quality sampling 09/19/2005 completed

Initiation of dredging and sediment decontamination pilot 12/05/2005 completed

Public release of Final Community Involvement Plan 06/09/2006 projected

Draft Interim Remedial Measure (IRM) Evaluation Report 08/31/2006 projected

Last Edited: 04/13/2006 12:05 PM, EricJ Wilson (Date & Editor reflect changes to Actions document.)
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General
message